IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22332 of 1995

Between:

Vittal Rao S/o Sri Ramaiah
Puranapool, Hyderabad.

..... PETITIONER

AND

A.P.State Muslim Wakf Board,

Rep. Secretary, Opp: Public Gardens,

Nampally, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or a direction or a writ more particularly a writ in the nature of mandamus declaring the order passed by the respondent A.P. Muslim Wakf Board Hyderabad in their proceedings in file no. 36/G.4/R/Hyd/II/88 dated 21.6.1995 directing the petitioner to enter in to a rental agreement as tenant with retrospective effect from
1-4-87 in respect of the suit premises bearing Municipal door
No. 20-1-292, 293 and 290 together with open land in all admeasuring 413.57 Sq.Yards situated at Inside Puranapul, Hyderabad being the property covered by perpetual nuzul deeds as illegal arbitrary, wholly without jurisdiction and violative of principles of natural justice and consequently to quash the same by directing the respondent to receive the usual annual nuzul amount of Rs.100/- from the year d1988 onwards.

Counsel for the Petitioner: MR.P.PRATAP REDDY

Counsel for the Respondent: MR.M.A.BARI, MR.A.M.QURESHI.

The Court made the following:

ORDER:

This writ petition is filed questioning the proceedings dated 21-6-1995 in File No.36/G.4/R/HYD/II/88 whereby the petitioner was directed to pay rentals @ Rs.250/- per month with retrospective effect from 1-4-1987 and to enter into a rental deed in respect of the premises bearing Door No.20-1-292, 293 and 290 together with open land in all admeasuring 413-57 sq. yards in possession of the petitioner.

It is the case of the petitioner that his father acquired the above-mentioned land from one Nawab Ashraf Ali Khan and his son in the year 1928 and 1952 respectively in two phases by entering into a Nuzulnama. Later on the Nawab Ashraf Ali Khan gifted his properties including the land in question to a religious organization by name HUMAERA MAZABI. His father has also constructed a compound wall after obtaining the permission from the said religious organization. Thereafter, since the properties of the said organization have been taken over by the Wakf Board, he obtained permission from the Wakf Board and constructed a house in the said land. According to the petitioner they had been paying Rs.100/- per annum as Nuzul amount, after the Wakf Board has taken over the properties. While so, the Wakf Board by proceedings dated 21-1-1994 has directed the petitioner to pay rent @ Rs.400/- per month with retrospective effect from 1-4-1987. Aggrieved thereby, the petitioner made representations dated 14-2-1994 and 1-6-1995 to reduce the

amount. After considering the representation of the petitioner, the respondent passed the impugned proceedings reducing the rent from Rs.400/- to Rs.250/- per month payable with effect from 1-4-1987, however imposing the following conditions:

1. He shall pay the rent on 5th of every month.
2. He shall execute and get renewed the rental deed for every (11) months and abide the terms and conditions of the rental deed according to Wakf Act.
3. He should pay water and electricity charges and property taxes in addition to the rent fixed.
4. That the A.P. State Wakf Board reserves its rights to cancel/alter/modify/withdraw/ this orders without assigning any reasons thereof.

Aggrieved by the said proceedings the present writ petition is filed contending that the petitioner need not execute any rental deed since he has been paying Nuzul only and not rent and the property is covered by a Nuzulnama.

The respondent filed counter affidavit denying all the averments made in the writ petition. It is specifically stated that the property in question is Wakf property, the system of Nuzul has been dispensed with and as per the provisions of Section 56 of the Wakf Act, 1955 the period of lease has to be limited to 3 years only and the petitioner cannot claim any ownership rights over the Wakf property.

Heard the learned counsel for the petitioner and the respondent.

The learned counsel for the petitioner represented no instructions.

A perusal of the averments made in the affidavit and the counter affidavit reveals that the Wakf Board is the custodian of the property in question and after considering various aspects and for better administration of the Wakf, the Board has determined that the transaction is tenancy but not Nuzul and fixed the rent at Rs.250/- per month by imposing certain conditions, mentioned above, particularly in view of Section 56 of the Wakf Act, 1955.

Having regard to the specific stand taken by the respondent that the system of Nuzul has been dispensed and all the Wakf properties are being rented for a

specific period only and since there are no instructions on petitioner's side, I cannot agree with the contention of the petitioner that the transaction is a Nuzul and so he need not to execute the rental deed.

I see no merits in the writ petition and the same is accordingly dismissed. No order as to costs.

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N.V. RAMANA, J

Dated: 25-10-2004

LSK/ASP

To

1. The Secretary,

A.P.State Muslim Wakf Board,

Public Gardens, Nampally, Hyderabad.

2. Two C.D. copies.